

**James B. Cox  
2822 Poly Drive  
Billings, MT 59102**

March 5, 2013

Representative Krayton Kerns, Chairman  
House Judiciary Committee  
Montana Legislature

Dear Mr. Kerns and Committee Members,

This provides comments concerning today's Committee hearings on SB9 to establish a corrections advisory council and SJ3 for an interim study of the Montana Board of Pardons and Parole. Thank you for this opportunity to comment as a Montana citizen and taxpayer, and as a community volunteer trying to assist parolees, probationers, and other released prisoners to get on their feet and become productive members of society.

Concerning SB9, a corrections advisory council is needed, but the bill calls for it to be composed almost entirely of persons having financial interests in the status quo. Disinterested academic experts such as Penologists and Criminologists should be included, and also a concerned taxpayer should be included, who has a disincentive to increase the inefficiency and public expense of the current state and contractor corrections system.

Concerning SJ3, as a volunteer I have personally encountered devices used by the Board of Pardons and Parole and Department of Corrections (DOC) parole and probation officials to achieve reincarcerations on technical grounds. I learned from the DOC 2013 Biennial Report, page A-28, that 94% of revocations are for technical violations, not violations of law. Technical violations keep the size and expense of the prison growing despite falling crime rates. To the DOC and its contractors, a prisoner restored to the community is an income stream lost.

I had hoped to present much documentation, but attached is a current instance which shows DOC employees and supervisors actually violating the law and the Montana Constitution in order to conceal evidence. This is the situation leading to the attachment:

Upon release on parole, the prisoner was required to pay a DOC contractor to repeat a "group" already successfully completed in prison. I provided him timely transportation to locations on his approved agenda to keep him on schedule, and only to those locations, with one sole exception: I took him to the Emergency Room of St. Vincent Hospital in Billings without his Parole Officer's permission. Upon discharge from the hospital after about ten days, he attended his next group session with the DOC contractor. The contractor documented his progress as Satisfactory except he had nothing to pay. The next day, the contractor expelled him for nonpayment. He was then arrested for nonattendance and his parole was revoked for that sole reason and he was reincarcerated. But when DOC learned that he had used HIPAA to get hospital records of his needed cardiac condition sent beyond the grasp of prison officials, and that his next of kin would sue for wrongful death should he die of being denied required surgery, he was suddenly released on probation.

He came to Billings on probation to have the surgery performed at St. Vincent Hospital not at DOC expense. It was successful, and he was successfully meeting his probation conditions, so additional conditions were put on him as shown in my attached letter of

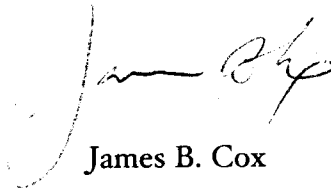
February 14 to Probation Officer Megan Schaak, under threat of immediate jailing if he would not sign them. Next, another condition was added--that he was to bring in my cell phone to her office and no longer use it as it had a camera. That gave rise to my second attached letter, of February 27, to Probation and Parole Officer II Dan Taylor.

There is currently no limit to additional conditions that can put on probationers by local DOC officials after the initial conditions imposed by the Board of Pardons and Parole, and no limit to conditions that that Board can put on a prisoner for release on parole or probation in addition to his sentence. This situation ensures the steady stream of revocations on technical grounds that is set forth in DOC's own 2013 Biennial Report.

Though the Montana Supreme Court has a long and consistent history of supporting the Right to Know, I have not sued to legally coerce DOC to disclose the public records shown in the attached requests (and previous requests to other DOC officials) because being both the complainant and a taxpayer, I would be paying for both sides of the litigation. But I hope that the study called for by SJ3 will bring them to light and to public attention.

Thank you for the opportunity to comment. In addition to the two attachments to this, I have provided extensive documentation as attachments to my previous comments to the Law and Justice Interim Committee in hearings in 2011 and 2012. If that documentation is not available to this Committee, I can provide you additional copies. I hope that they will be useful toward correcting the abuses.

Sincerely,

A handwritten signature in black ink, appearing to read "James B. Cox", with a large, stylized initial "J" and "C".

James B. Cox

Attachment (12pp)

cc: Committee Members  
Committee Administrative Aide  
Senator Murphy

*Attachment*

**James B. Cox  
2822 Poly Drive  
Billings, MT 59102**

By certified mail 7012 1640 0002 3002 7672, return receipt requested.

February 27, 2013

Probation and Parole Officer II Dan Taylor  
Montana Department of Corrections  
2615 4th Avenue South  
Billings, MT 59101

Dear Mr. Taylor:

This refers to voicemail I left for you yesterday at 896-5406, the number provided by Megan Schaack of your staff before she was removed from supervising probationer Jack Griffin. I have not received a return call.

Attached is a copy of my letter of February 14, 2013 to Ms. Schaack. As she is no longer supervising Mr. Griffin, she may no longer be in a position to respond to some of my requests for public records which pertain specifically to him. Therefore, I am hereby making the same requests to you. In addition, please send me a copy of any records retention schedule in effect for each category of record I am requesting from you.

Following that letter, before Ms. Schaack was removed from supervising Mr. Griffin, he told me that she told him to bring his cell phone to her. Mr. Griffin does not own a cell phone that I know of. The telephone number that he provided to Probation & Parole officials upon his arrival in Billings on probation, 699-0151, is for a cell phone account of mine that I let him use to look for work and for other lawful communication. The handset associated with it is my property, not his. You may obtain it and its usage records in the normal way--by subpoena--not by bypassing the appropriate court.

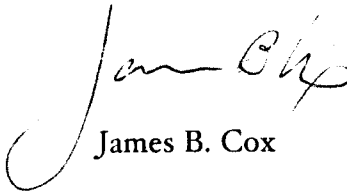
Mr. Griffin told me that he is now not allowed to possess a cell phone having a camera, though I can find no such restriction in any documentation that he has. I have not been able to get from any Montana Department of Corrections official a copy of the conditions under which he was released on probation. This may be another example of local officials adding to the conditions imposed for a prisoner's release on probation, as photographs had nothing to do with the crime for which he was sentenced, but I won't know for certain until I receive a copy of Mr. Griffin's original probation conditions which he signed at the prison.

Nevertheless, in order to assist Mr. Griffin in complying even with improperly-imposed additional conditions, today I am suspending service on number 699-0151 until Mr. Griffin is able to obtain a cameraless handset. No condition that I have seen requires him to have a telephone at all, much less one that records voicemails, though Ms. Schaack used that to impose scheduling changes on a few hours notice while Mr. Griffin was at work.

This morning Mr. Griffin told me that last evening in his assigned "group" run by a Montana Department of Corrections contractor, the contractor said he could just coat my camera lens with nail polish, but he gave Mr. Griffin no documentation of that. Mr. Griffin told me that that contractor has the power to do whatever he wants. That is possible, though it would be very surprising to me. Please send me a copy of any public record delegating to that contractor the authority to release a state-mandated "client" from any properly-imposed condition of probation.

I have the right to take a copy of the two public writings requested above and those listed in the attachment in accordance with Montana Code Annotated 2-6-102 and its following paragraphs, which implement Article II, Section 9 of the Constitution of the State of Montana. I am a citizen of Montana residing at the address above. I hereby agree to pay up to \$50 for the copies of the public records I request above and in the attachment. If the fees for providing me those copies will be more than that amount, please send me a copy of the regulation or other authority used in setting those fees.

Sincerely,

  
James B. Cox

Attachment (1; 10 pp)

cc: Jack Griffin

bc:

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>		A. Signature <input checked="" type="checkbox"/> <i>U. BRUCE</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
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